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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,293	04/20/2004	Susumu Michisaka	0505-1294PUS1	2629

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EXAMINER
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BARFIELD, ANTHONY DERRELL

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/827,293

Applicant(s)

MICHISAKA ET AL.

Examiner

Anthony D. Barfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-19 is/are rejected.
- 7) ☒ Claim(s) 6 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/20/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 12 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "the loading space" lacks proper antecedent basis in claims 5 and 19. In claim 12, it is unclear as to which "seat" applicant is referring to i.e., the operator or passenger seat.

### ***Claim Objections***

Claims 9-10 are objected to because of the following informalities: the word "passenger'd" should be --passenger--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by McBroom. McBroom shows a seat structure (60) for a motorcycle provided with an operator's seat for an operator and a passenger's seat for a passenger comprising a seat back (64, 66) which functions as both the passenger's seat when the seat back is positioned in a substantially horizontal position

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and may be raised to be a backrest for the operator when only one person uses the motorcycle (see Fig. 1); and a hook (86,88) provided on a rear side of the seat back, to which a rope and other means can be fastened when the passenger's seat is raised. McBroom shows a loading space formed when the seat back that also functions as the passenger's seat is raised (the area between the seat back and reverse U-shaped grab rail) The seat structure further including a reverse U-shaped grab rail (48) when the grab rail is viewed from the (rear) side on the (rear) side of the loading space is attached to a body frame (32) under the loading space.

Claims 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamaha (JP Application 2002145143 A) Yamaha shows a seat sliding mechanism (21,22) mounted relative to a body frame (4) the seat sliding mechanism is directly connected to an operator's seat (3F) whereby a passenger's seat (3R) is attached to the operator's seat indirectly via the body frame and a rear frame (8), as shown in Fig. 7e. The passenger's seat is supported by an inside frame (26,27) provided inside of a rear frame (8) which houses the passenger seat as viewed from a top in a horizontal state (Fig. 2). Yamaha further shows a loading space attached to the rear frame (Fig. 7e) when the passenger seat functions as the backrest for an operator and an operating lever (34) connected to a serrated member (33) for selective movement between a locked and locking releasing state of the passenger seat.

#### *Allowable Subject Matter*

Claims 6 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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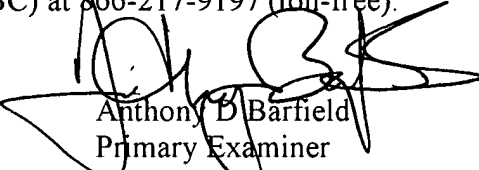
Claims 5 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference Nos. 4,462,634, 4,953,911, 6,068,334, and 6,631,948 show features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anthony D. Barfield  
Primary Examiner  
Art Unit 3636

adb  
6/18/2005